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**HF 403** – DNA Testing (LSB 2016HV)

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Fiscal Note Version – New

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**Description**

**House File 403** requires a person convicted of (or receive a deferred judgment for) an offense classified as an aggravated misdemeanor to submit a DNA sample. The costs for performing the DNA profiling will be assessed as part of the defendant's restitution payment plan. Under the Bill, the restitution requirement applies to both offenders convicted of aggravated misdemeanors and felonies.

**Background**

- The current DNA profiling program applies to persons with a deferred judgment or conviction for a felony; a sexually violent predator; a person found not guilty by reason of insanity for an offense that requires DNA profiling; a juvenile adjudicated delinquent for an offense that requires DNA profiling; a person required to register as a sex offender; or a person in custody, control, or jurisdiction of a supervising agency prior to June 14, 2005, with an offense that requires DNA profiling.
- In FY 2010, there were 7,270 felony convictions. Under current law, DNA is collected from all convicted felons in the State of Iowa. The Department of Corrections, including community-based corrections, collects 95.0% of the samples taken.
- DNA kits are provided by the Department of Public Safety and are paid from the General Fund appropriation to the Division of Criminal Investigation. The total cost to the Department of Public Safety for one sample is \$62, including \$30 for the supply costs and an estimated \$32 for staff time.
- In FY 2010, there were 13,677 offenders convicted of an aggravated misdemeanor. Aggravated misdemeanants that are sex offenders are already required to give DNA under current law. In FY 2010, there were 141 offenders convicted of aggravated misdemeanor sex offenses.
- The top three aggravated misdemeanor conviction offenses are driving while barred habitual offender, operating while intoxicated – second offense (OWI 2nd), and theft – third offense (theft 3rd). These three offenses represented 51.3% of all aggravated misdemeanor convictions during FY 2010.
- The current DNA profiling program is operated with 3.0 FTE positions. In FY 2010, the total cost of the program, including personnel and materials, was approximately \$536,000.
- The estimated cost for one entry level criminalist, including salary and benefits, is \$70,000. The estimated cost for one entry level clerk-specialist, including salary and benefits, is \$43,000.
- Under current law, restitution plan payments are applied in the following order:
  - Restitution owed the victim.
  - Fines, penalties, criminal penalty surcharge, and law enforcement initiative surcharge.
  - Crime Victim Compensation Program.
  - Court costs, including correctional fees, court-appointed attorney fees, and public defender expenses.

- Of the current \$522.0 million in outstanding court debt, 65.0% of the debt is criminal debt. Of the total outstanding court debt, 10.7% is owed by people currently on probation, and 8.9% is owed by people currently in prison.
- In one year, 21.4% of the offenders that leave prison have paid their victim restitution in full.

### **Assumptions**

#### **Kits**

- The majority of DNA samples for persons convicted of aggravated misdemeanors will be taken at the county jails.
- The Department of Public Safety provides DNA kits to the Department of Corrections and to the county jails.
- There will be approximately 13,700 aggravated misdemeanor convictions and 73.0% (10,000 annually) will be required to submit DNA under this Bill. The remainder have already submitted a DNA sample.
- Based on the Department of Corrections ICON data, there will be approximately 5,400 aggravated misdemeanants currently under DOC supervision of the total 7,300 that will be required to provide a sample under the Bill.
- The total number of kits Public Safety will have to distribute for DNA from offenders convicted of aggravated misdemeanors is 15,400 in the first year and 10,000 for each year after. One kit, including all supplies, totals \$30.

#### **Restitution**

- The Bill requires the restitution payment plan to include the cost recoupment for the DNA profiling and will be applied prospectively to both aggravated misdemeanor and felony convictions. The Bill is silent on the amount the judge may order as total restitution. For purposes of this fiscal note, judges will impose restitution for supplies only (\$30 per offender) as part of the sentencing order.
- The placement of the DNA profiling cost within the priority order of payment is after correctional fees but before court-appointed attorney fees or approximately the eighth item paid.
- Of the 13,677 offenders convicted of aggravated misdemeanors, 2,079 (15.2%) would have victim restitution ordered to be paid. The first-year collection rate for cases with victim restitution ordered is 22.4%. The second-year collection rate is 16.2%. The remaining 11,598 cases would have a collection rate of 20.3% in the first year. The second-year collection rate is 20.1%.
- Of the 7,270 offenders convicted of felonies, 3,984 (54.8%) would have victim restitution ordered to be paid. The first-year collection rate for cases with victim restitution ordered is 7.6%. The second-year collection rate is 6.3%. The remaining 3,286 cases would have a collection rate of 15.9% in the first year. The second-year collection rate is 16.9%.

#### **Public Safety**

- The Department of Public Safety will add two additional criminalists and one clerk specialist. The positions will be filled at the entry level. The estimate for FY 2013 assumes a 4.5% step increase.
- There will be a one-time fee in the first year for user licenses for the laboratory information management system (LIMS). The Department will add three user licenses at \$3,000 each.

### **Fiscal Impact**

The Bill requires offenders convicted of aggravated misdemeanors to provide a DNA sample (current law requires certain aggravated misdemeanants and all felons to provide a DNA sample). This requirement expands the workload of the DPS with an expected General Fund fiscal impact on its operating budget of approximately \$654,000 in FY 2012 and \$492,000 in FY 2013.

The Bill requires any offender convicted of an aggravated misdemeanor or a felony to pay restitution for costs associated with the collection of the DNA sample. It is estimated that \$628,000 will be imposed annually for DNA restitution under the Bill. Given the timing of the restitution payments and the fact that not all restitution is in fact collected, the estimated amount collected in FY 2012 is \$109,000 and \$214,000 in FY 2013. The revenue will be deposited in the General Fund as miscellaneous court receipts. The difference between what is included in the offender's restitution payment plan and what is collected could potentially increase the State's outstanding court debt.

**Sources**

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Department of Corrections  
Department of Public Safety  
Judicial Branch

/s/ Holly M. Lyons

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March 16, 2011

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The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to Code [Section 2.56](#). Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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